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HEIRS OF OFFICERS OF THE REVOLUTIONARY ARMY.

[To accompany bill H. R. No. 154.]

APRIL 4, 1856.

Mr. BROOM, from the Committee on Revolutionary Pensions, made the following

REPORT.

The Committee on Revolutionary Pensions, to whom were referred the petitions of divers persons, praying for the full benefit of sundry resolutions of the Continental Congress for the relief of the officers of the Continental army, their widows and orphan children, and House bill No. 154, to provide for the settlement thereof, have had the same under consideration, and present the following report:

That they have carefully examined the memorials, and given the subject all the consideration which its importance demands. The incidents of the Revolution, the great results of that struggle for liberty, and the happiness conferred by its accomplishment upon millions of freemen, would occupy volumes. The history of the period shows, that at the commencement of the contest in 1776 the population of the country was exceedingly sparse, and government so poor that many of the officers were obliged to arm and equip their own companies, and instances were frequent where their entire fortunes were devoted to the cause of their country. The Continental bills, in which their monthly stipends were paid, had so depreciated that at the close of the year 1780 they were almost valueless. The money which they actually received was wholly inadequate for their own wants, while their families at home were often destitute. Under these circumstances, the commander-in-chief frequently presented to Congress the situation of the army, and urged the necessity of having some permanent provision for such officers as would remain in the service to the end of the war. In one of his letters, addressed to Congress on the 20th of August, 1780, he says: "On the whole, if something satisfactory be not done, the army (already so reduced in officers by daily resignations as not to leave a sufficiency to do the common duties of it,) must either cease to exist at the end of the campaign, or it will exhibit an example of more virtue, fortitude, self-denial, and perseverance than has ever yet been paralleled in the history of human enthusiasm. The dissolution of the army is an event which cannot be regarded with indifference. It would bring accumulated distress upon us; it would throw the people of America into a general consternation; it would discredit our cause

throughout the world; it would shock our allies. To think of replacing the officers with others is visionary. The loss of the veteran soldiers could not be repaired." In compliance with General Washington's recommendation, Congress, on the 21st day of October, 1780, passed a resolution, in the following words: "*Resolved, That the officers who shall continue in the service to the end of the war shall be entitled to half-pay for life, to commence from the time of their reduction.*"

This resolution may well be said to have formed a contract between the government and the officers at a time when both were free to make it, and its happy effect upon the army was soon seen and felt. In a letter from General Washington to Congress, in 1783, he says: "That in the critical and perilous moment when the last-mentioned communication was made, there was the utmost danger that a dissolution of the army would have taken place, unless measures, similar to those recommended, had been adopted, will not admit of doubt. That the adoption of the resolution, granting half pay for life, has been attended with all the happy consequences which I foretold, let the astonishing contrast between the state of the army at this instant and at the former period determine;" and in the same letter he urges, with eloquent appeals, that justice and good faith require that Congress should make provision for "the payment of all just demands of the army."

When the promise of half pay for life was made, the war had been in progress for five years, and it was uncertain how long it would continue; it might last for ten or twenty years, but the certainty of a competency to the officers after the contest should cease, although it afforded no immediate relief, cheered them on, and enabled them at length, at the risk of their lives, with the aid of their brave associates, and under the favor of Heaven, to perform the contract on their part, and achieve the liberty and independence of the country. The war closed in 1783, and, owing to the inability of Congress to pay the army, it was furloughed first for six months, and then indefinitely; and in this way, as your committee are informed, the army of the Revolution was disbanded. About that period, some dissatisfaction having arisen at the half-pay system, a proposition was made to commute the half pay for life for five years' full pay; and, on the petition of seventeen officers only, Congress passed an act (see law of March 22, 1783) declaring that the officers who were entitled to half pay for life might receive in lieu thereof five years' full pay in *money* or securities, bearing an interest at six per cent.; which commutation was to be accepted by *lines* and States, and not as individuals. This law, called the commutation act, was on its face unjust and unequal; for while an officer of sixty years of age would willingly commute his life annuity for five years' full pay in advance, another of thirty might reasonably estimate his life at a much longer period. No one will contend that Congress could annul, vary, or rescind the contract of half pay for a less sum, without the assent of the officers as individuals; and the committee have been unable to ascertain that a majority of them, either by lines or as individuals, ever gave such assent. The effect of this arrangement was to subject the individual, as to his own par-

ticular rights, to the decision of others. If the officer had been left free to make his choice, and, having made it, the government had given him what he freely consented to receive, he may have been concluded. But he was not so free. The resolve of Congress, an act of the government, and a law left him no choice but to abide by the decision of the lines and corps of the army, or wait, whatever might be his wants, till a more fortunate period should enable him to approach that body, not with power to enforce his right, but only to sue for it in the language of solicitation. But if such assent was given, the offer to compromise was not fulfilled by the government; for when the officers called for their "*money*" or specie at the treasury, they were turned away with paper certificates, worth in gold and silver, on the day of their date, as the records abundantly show, only one-eighth of their nominal value. For instance, a lieutenant's full pay for five years was by commutation \$1,600, and that sum in "*money*" in those days of severe economy, and when money was worth more than double its present value, would have enabled him to set out in life with reasonable hopes of a competency for himself and family; but when he came to realize that his certificates were worth only \$200, less than a year's pay, he could only lament the poverty, and protest against the injustice, of the government in forcing them, as it were, upon him. There was no basis for them upon which to rest, nor any provision made for the payment of the principal and interest, until long after the imperious necessity of the officers compelled them to part with their paper for one-eighth of its nominal value. (See Senate Report of January 3, 1826.) The certificates were, however, many years after the war, finally funded and paid by the United States; but it may well be said that the commutation law and proceedings under it were a violation of the contract as contained in the resolution of October 21, 1780, and that the officers were not bound or concluded thereby, either at law or in equity, beyond the amount received by them under it.

The claims of these officers have repeatedly been presented to Congress, and as often received favorable reports from committees of the highest character for learning and ability. The first report upon these claims was made by Mr. Madison, on the 23d of April, 1783, in which he fully recognises their justice. Again, in 1810, a committee of the House declare, "*That the contract entered into by Congress with the officers of the revolutionary army, allowing them half-pay for life, has not been substantially complied with by our government;*" and they recommend the following resolution: "*That the prayer of the petitioners is reasonable and ought to be granted.*"

No law was, however, passed at that session, and the war of 1812 soon followed; and the subject does not seem to have been considered again until 1818, when Mr. Johnson, from a select committee of the House to whom the subject was referred, made a report in favor of the memorialists.

On the 10th of December, 1819, another able report in favor of these claims was made in the House of Representatives by Mr. Sergeant, from the select committee to whom the subject was referred, in which, after reviewing the whole subject, he says: "It seems to your

committee just and reasonable, and becoming the faith of the nation, to execute the contract originally made, upon the terms proposed by the memorialists; that is to say, of deducting from the arrears of half-pay, computed from the cessation of hostilities to the present time, the full nominal amount of the commutation certificate, and paying to the surviving officer the balance, and henceforward, during the remainder of their lives, paying them the half-pay stipulated by the resolve of 1780."

On the 3d of January, 1826, another report was made in the Senate in favor of these claims. Among other things, the committee say: "By virtue of these resolves, (the half-pay resolutions,) a solemn contract between the government and the officers was made. It originated and was consummated by the free and unbiassed will of the parties, without surprise or compulsion on either side. It has been most gallantly performed by the officers; and after a bloody conflict of eight years, and when the liberties and independence of their country were secured, following the example of the celebrated Roman, they retired with cheerfulness to their private citizenship."

"It seems to the committee, that the performance of a contract on such an occasion, and especially one which has produced such boundless consequences, ought to be observed on the part of the government with profound sanctity; and that nothing, therefore, but the free expression of the will of both parties, unaffected by necessitous circumstances, ought to be allowed to abrogate or rescind it."

At the same session, (1826,) Mr. Burgess, of Rhode Island, a statesman of great astuteness, made a favorable report; and the same member, on the 11th February, 1828, made another able report, though no definite action upon it seems to have been had. After an elaborate view of the subject, the committee remark: "The certificates had no funds whereon to rest, and their market value was not equal to one year's pay. And it appears to your committee too much to say that the delivery of this almost valueless paper was a payment in money according to the sense of the offer, or that these certificates were the securities intended thereby, either according to the common understanding of the term, or the distinction expressly made in the resolve itself, between securities and certificates. * * * * * Under these circumstances, your committee, in the choice of alternative, are obliged to say that, in their opinion, the delivery of these certificates, as well on general principles as on those which govern in courts of law or equity, did not annul the rights to half-pay, nor exonerate the government from the obligations of the original contract in this regard."

In 1852 this subject was again presented to the Senate, on the petition of the heirs of Lieutenant Benjamin Moore, and fully considered by the Committee on Revolutionary Claims, consisting of Messrs. Walker of Wisconsin, James of Rhode Island, Sumner of Massachusetts, Foot of Vermont, and Chase of Ohio. They gave the subject the most careful and laborious examination, and the result of their labors may be found in Senate Report No. 164, first session thirty-second Congress, and its perusal is commended to those who desire a knowledge of the subject.

No definite or final action appears to have been had on said report.

On the 4th of February, 1854, the subject was again brought forward in the Senate by Senator Evans, of South Carolina, who made a very able report, accompanied by a bill (No. 186) which subsequently passed the Senate, but was not acted upon in the House. The Committee on Revolutionary Claims, to whom it was referred, agreed upon a report, a copy of which is herewith presented, but it was not made in the House, as the chairman (Hon. R. W. Peckham) states, "for lack of opportunity." The subject was again brought forward in the Senate, and a report made by Senator Evans—No. 7, 1st session 34th Congress, (present session)—accompanied by bill No. 109. The bill, which the committee present, proposes substantially to carry out the laws of the Continental Congress, by allowing the half pay for life, without interest, from the close of the Revolution, in 1783, to the period of the officer's death, provided that event took place previous to March 3, 1826; but if after that time, then up to that day, deducting the full amount of the commutation certificates. The bill makes the amount which may be found due under it, in case of the officer's death, payable to the widow and children of the officer equally; and if no widow, then to his child, children, or grandchildren, the issue of any deceased child taking among them the share of their deceased parents. The bill proposes to deduct from the half pay to which any officer or his descendants are entitled the amount which has been received by way of commutation under a general or special act of Congress, and to pay the balance without interest. It also provides for those who were killed or died in the service. All those officers who died previous to 1793 will not derive any benefit under this bill, and its value to others will depend upon the time they lived after that period, and the rank they held in the army. The whole number of continental officers entitled to half pay, according to an estimate of Senator Evans, is about 2,300
From which deduct for families which have become extinct,
those who died previous to 1793, and those unable to make
out their claims—say one half..... 1,150

Leaving the number to be provided for..... 1,150

Assuming the half-pay of a captain as the average, at \$240 per annum, and the lives of the officers at twenty years, ten years of which is covered by the commutation certificates, and it will require, to pay these men and their representatives within the next ten years, the sum of \$2,760,000, or, in round numbers, three millions. This sum divided among 27,000,000, our present population, would require about one cent from each inhabitant to cancel the debt.

The annual amount which will be disbursed in the settlement of these claims will not exceed the sums which we have expended in payment of revolutionary pensioners. Of the fifty-four thousand admitted to the rolls, only about seven hundred remain, and these are rapidly passing away. It is hardly necessary to go into a minute estimate of the sums which may be drawn from the treasury under this bill, for, if the justice of these claims be admitted, it is refreshing

to know that the income of our government for about twenty days will pay them, to say nothing of the millions upon millions hoarded in our national treasury, and withdrawn from general circulation. We have abundant means to discharge these demands; and if they required the whole money in the treasury, we ought to pay them, and relieve the nation of the solemn obligation which yet rests upon it.

The widows and children of these officers are scattered throughout the Union, and many of them are living in poverty, while some are supported by charity. And although a long period has elapsed since "these old creditors of the country" were entitled to their money, the delay cannot justly be attributed to them, for they have again and again urged, and will continue to urge, the payment of their just demands. Nor is there any want of record evidence of these claims, for the committee have ascertained that the public archives contain full and perfect returns of the name and grade of every officer embraced by the bill, together with the dates, numbers, and amount of his commutation certificates; and the records of Congress are replete with evidence that no payment to these men has ever been made. If it be said that these claims are barred by lapse of time, it may be answered that they have repeatedly been urged upon and recognised by Congress as just and due; and a noble nation never pleads the statute of limitations against its own citizens.

In the Senate report to which we have alluded, (No. 164.) the committee say: "The men who held the destiny of this nation in their hands have now nearly all passed away, yet there remains on the journals of Congress an unredeemed pledge of the national faith: *the resolution of the 21st of October, 1780, stands unfulfilled on the part of government.* The circumstances which prompted the passage of this resolution mark it as a monument of necessity and wisdom. That necessity emanated, not from want of patriotism in the officers, but from stern domestic obligations resting upon many of them towards their wives and parents, who were dependent on them for support, whose wants could not be supplied from their small stipends, irregularly paid, and these only in a depreciated currency. That resolution, though it relieved nothing of present necessity, gave confidence and hope for the future, and brought more zeal and energy to the defence of the national liberties. To evidence the necessity and wisdom of the measure, the committee refer to the testimony of General Washington, in a series of letters written to Congress at different periods from 1778 to 1783, at whose instance the resolution of 1780 was evidently adopted. What its necessity, object, and utility were will fully appear in that correspondence. The current testimony of Congress, in numerous instances, corroborates all the documentary history of that period, awarding the praise, and gratitude, and solemn faith of the nation, to the soldiers and officers of the revolutionary army. At that time it had nothing else to give, and with self-denial and sacrifice unparalleled in the history of the world, that army, having successfully won by their arms the independence of their country, and for their patient endurance the admiration of the world, surrendered their half-pay annuities, and suffered themselves to be disbanded and discharged with a very small pittance of pay,

and that in nearly a worthless medium, and returned to their families and friends destitute of any adequate means to establish themselves in civil life. The committee deem it unnecessary to add anything to that which has been so well said in the reports and letters quoted, and concur in the sentiment *that good faith, justice, and honor demand that we no longer withhold payment from these old creditors of the country.*"

The committee further report House bill No. 154, referred to them, and recommend its passage, with the following amendments, to wit:

In section 5, 4th line, strike out the words "half-pay of a lieutenant of infantry," and insert in lieu thereof the words "same pay as hospital physicians and surgeons."

In section 9, strike out all after the enacting words, and insert the following: "That this act shall not extend to the case of any officer, or his representatives, who have received either half pay for life, or commutation in lieu thereof, under any special act of Congress."

In section 11, strike out all after the enacting words, and insert the following: "That all claims which shall be allowed under the first and fifth sections of this act shall be paid to the officer, if alive; and if he be dead, to his widow and children equally; and if there be no widow living, then to his child, children, or grand-children: the issue of any deceased child taking among them the share of their deceased parent, and to no other persons."

HEIRS OF CONTINENTAL OFFICERS.

Report to accompany bill for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who were killed or died in the service.

The Committee on Revolutionary Claims, to which sundry memorials on the subject have been referred, do by their chairman ask leave to report a bill for the final settlement of the claims of officers of the revolutionary army, and the widows and orphans of those who died in the service.

In reporting this bill and recommending its passage, your committee respectfully submit the following statement and remarks:

The provisions of the bill are founded on certain resolutions of the old or continental Congress, and copies of those referred to in the first section of the bill are appended to this report.

It will be seen that they created a *solemn contract* between the government and those officers who served to the end of the war, to the performance of which the faith of the government and the nation was pledged.

It is admitted that that pledge has never been fully redeemed, and that most of that class of officers who performed *their* part of the contract have descended to the grave, leaving their widows and children to claim the fulfilment of it on the part of the government.

The bill herewith reported proposes to accomplish that object, as far as circumstances will now admit.

Your committee deem it unnecessary to enter into an explanation of the provisions of the bill, as they are sufficiently explained by the bill itself, in connexion with the resolutions of Congress referred to in it.

It will be seen that the bill proposes to deduct from the allowance of half-pay (without interest) granted to the parties interested, the full amount of commutation certificates for five years' full-pay issued under the resolution of March 22, 1783, in lieu of the half-pay promised by the resolutions referred to.

Your committee will not go into a history of the circumstances under which those commutation certificates were forced upon the officers to whom they were issued.

It is sufficient to say that the officers were induced by their poverty and necessities, and the condition of the finances of the government and country, to accept them; and that, as is alleged, and your committee believe truly, owing to the same causes, they were compelled to part with those certificates at a great depreciation, and the original holders realized only about twelve and a half per cent. of their nominal value. But as they were afterwards paid by the United States at their full amount, it is deemed proper to deduct that amount from the claims for half-pay allowed by the bill.

The justice of the claims provided for by the bill has been repeatedly recognised in Congress by committees and distinguished members of both houses.

In April, 1783, Mr. Madison made a report in their favor, in which he fully recognises their justice.

Again, in 1810, a committee of the House of Representatives "*Resolved*, that the *contract* entered into by Congress with the officers of the revolutionary army, allowing half-pay for life, has not been substantially complied with by our government."

Again, in 1818, Mr. Johnson, from a select committee of the House, made a favorable report on these claims. And in December, 1819, another able report in their favor was made by Mr. Sergeant.

Also, in January, 1826, another favorable report was made in the Senate; and at the same session, and also in February, 1828, Mr. Burgess, of the House, made reports in favor of these claims.

In addition to this accumulation of opinions in their favor, may be added the fact that a large number of private acts allowing half-pay to certain officers of the class embraced in the bill have been passed by Congress at different periods since the Revolution.

But your committee beg leave to call the special attention of the House to the action of Congress in relation to claims for half-pay, of certain officers of the Virginia State troops and navy and of the line of that State.

By the act of Congress of 5th July, 1832, the accounting officers of the Treasury are required to liquidate and pay the accounts of the commonwealth of Virginia against the United States, for payment to the officers commanding in the Virginia line in the war of the Revolution, on account of half-pay for life promised the officers aforesaid by that commonwealth, &c.

And the Secretary of the Treasury is required by the same act "to pay to the State of Virginia the amount of the judgments which have been rendered against the said State for and on account of the promises contained in an act passed by the legislature of that State in the month of May, 1779, in favor of the officers or representatives of the officers of the regiments and corps in said act of Congress mentioned, being officers belonging to the State troops or navy of Virginia."

Your committee refer to the act of 5th July, 1832, at large, for further particulars, with the remark that since Congress has provided for and paid the half-pay claimed not only by officers of the line of Virginia, but of the State troops and navy of that State, founded upon promises made by the *State*, it seems to be unnecessary to cite any other or stronger precedent in favor of the claims provided for by the bill reported by your committee, founded on similar promises made by the Congress of the *United States*.

It may be proper for your committee to submit some remarks upon the probable amount of the draught which may be made on the treasury, by the bill, if it becomes a law.

In reply to anticipated objections and exaggerated statements on this subject, your committee would respectfully refer to the estimates made by Senator Evans, in his speech in the Senate, upon a similar bill reported by him to that body.

That speech was reported in the "Congressional Globe" of 19th April last, (1854.)

The honorable senator states that "the highest amount at which the officers of the Revolution have ever been estimated was *two thousand four hundred and eighty*; but it does not appear from the books of the Treasury Department that more than *two thousand two hundred and fifty-six* have ever received commutation or half-pay."

He goes into a calculation to show that the average of the half-pay of all the officers would be two thousand four hundred dollars, after deducting, as the bill proposes, the commutation which has been received by each. And that "the largest amount, supposing that the descendants of all of whom we have any record, come in and receive under the bill, will be five million five hundred and twenty thousand dollars."

He then goes into another calculation to show the number of officers whose widows or descendants may probably claim under the bill, and arrives at the conclusion that their number will not exceed seventeen hundred and twenty-five; and that if the descendants of every one of that number should apply, their claims upon the treasury would not exceed four million one hundred and forty thousand dollars.

He also makes an estimate founded on the number of pensioners under the act of 15th May, 1828, "that the descendants of not more than twelve hundred and forty-four officers can now make any claim under this bill, and that 'the total amount necessary to be appropriated for the entire extinguishment of all the claims likely to come in under the bill is two million nine hundred and sixty thousand six hundred dollars'—a little less than three millions."

Your committee have not tested the accuracy of the estimate made by Senator Evans, by any calculation of their own; but, relying with great confidence upon his opinions and judgment in the matter, re-

spectfully refer the results above stated to the consideration of the House.

If it be admitted, however, that the demands of *bona-fide* claimants under the bill should exceed even the highest estimate above made of the total amount, your committee apprehend that it would not be a sufficient reason for refusing to pay them.

With a full treasury and an annual revenue of about seventy millions of dollars, there ought not to be any hesitation to pay a debt, the justice of which has been often acknowledged and never denied, and which has been repeatedly, within the last fifty years, asked for in vain, until the present time.

Another consideration which may have some weight in a financial point of view, in favor of the bill, is the rapid decrease in the number of revolutionary officers and soldiers, whose pensions to a large amount have been a charge upon the treasury in years past.

The following facts on that subject, derived in part from the last report of the Commissioner of Pensions, is respectfully submitted:

The whole number of persons who have been pensioned under the act of 18th March, 1818, is about twenty thousand.

They are now reduced by death to only one hundred and seventy-five. The whole number pensioned under the act of 15th May, 1828, is believed to be about fifteen hundred. There are now only eighteen on the list under that act.

The whole number pensioned under the act of 7th June, 1832, is about thirty-four thousand, of whom only eight hundred and seventy-six remain on the list.

These are the only general laws under which the officers and soldiers of the Revolution have been pensioned; and according to the report of the Commissioner of Pensions, there are only one thousand and seventy-five now living, to receive the bounty of their country, not one of whom can be less than ninety years of age. The total amount paid during the year ending September 20, 1854, according to the table B of the Commissioner's report, to these three classes of pensioners, was only \$75,445, instead of the millions annually appropriated and paid to them in former years. And your committee would remark, in connexion with these facts, that the claims under the bill will not be an *annual* charge upon the treasury, but, when once paid, are finally and forever disposed of.

In concluding this report, your committee abstain from making any appeal to the patriotic feelings or natural sympathies of the House; justice rather than sympathy is what the claimants expect, and what they have a right to demand, in regard to these long-neglected claims.

But instead of any such appeal, your committee prefer to quote the language of the illustrious Washington in relation to these very claims. In a letter dated at Newburgh, June 18, 1783, he thus expresses himself:

"That provision (alluding to the half-pay resolution) should be viewed as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give to the officers of the army for services then to be performed. It was the only means to prevent a total dereliction of the service; it was a part of their hire; I may

be allowed to say it was the price of their blood and of your independence. It is, therefore, more than a common debt; it is a debt of honor; it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged."

All of which is respectfully submitted.

MARCH, 1855.

The Committee on Revolutionary Claims agreed to the substance of the within report, but it was not made to the House at the last session, for the sole reason of a lack of opportunity to do so, after such agreement. In my judgment, the amount appropriated by the bill will be less than supposed by Senator Evans.

R. W. PECKHAM,

Chairman Com. Rev. Claims, last House of Reps.

ALBANY, October 15, 1855.

Copy of the resolutions referred to in the first section of the bill.

RESOLUTION OF OCTOBER 21, 1780.

Resolved, That those officers who shall continue in service to the end of the war shall be entitled to half-pay for life, to commence from the time of their reduction.

RESOLUTION OF JANUARY 17, 1781.

Resolved, That all officers in the hospital department and medical staff hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time, shall be entitled to and receive during life, in lieu of half-pay, the following allowance, viz: The director of the hospital equal to the half-pay of a lieutenant-colonel; chief physician and surgeon to the army, and hospital physician and surgeon, purveyor, apothecary and regimental surgeons, each equal to the half-pay of a captain.

RESOLUTION OF MAY 8, 1781.

Resolved, &c., That every chaplain deemed and certified to the Board of War to be a supernumerary, be no longer continued in service, and be entitled to have their depreciation made good, and to the half-pay of captain for life.

RESOLUTION OF MARCH 8, 1785.

Resolved, That officers who retired under the resolve of 31st December, 1781, are equally entitled to half-pay or commutation with those officers who retired under the resolves of 3d and 21st October, 1780.

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